

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

FULL BOARD MEETING MINUTES\*\*

AUGUST 6, 2002

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President  
Florence Bos, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. Staff from the National Association of Public Administration will meet with State Personnel Board and departmental staff to discuss the state's human resource structure and system in connection with a best practice study for the Department of Health and Human Services.
- B. The Department of Finance has issued a Budget Memo outlining direction for the 2003-04 budget year. Finance indicates it will not review Budget Change Proposals for new initiatives or program expansions.

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\*\* The State Personnel Board Summary Minutes can be obtained at the following Internet address:  
<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

Finance also indicates that departments should be prepared to submit expenditure reduction plans.

- C. Staff met with Small Personnel Information Network (SPIN) to discuss current human resource issues.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. State Personnel Board v. Department of Personnel Administration et al. (Sac Superior Court Case No. 01CS00109) - International Union of Operating Engineers (IUOE) has filed a Motion for Stay arguing that the Court's judgment should be vacated and the case stayed pending a result in IUOE v. State Personnel Board pending before the Public Employment Relations Board (PERB Case No. SA-CE-1295-S)
- B. Connerly v. State Personnel Board, et al. (Sacramento Superior Court Case No. 96 CS 01082) Motion for Attorneys Fees scheduled for September 6, 2002.
- C. Weissman v. State Personnel Board (Franchise Tax Board). Court granted petition for writ of mandate.

Other:

- A. Select Advisory Panel on Policy Prid and Appeals (SAPPPA) - Met on July 30, 2002 to discuss a number of issues ranging from post and promote to pending legislation to results of survey on Board performance.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. AB 1950 (Wright) will allow departments to extend the probationary period for an employee with a disability when necessary, in order to evaluate performance with a

reasonable accommodation in place. (Board Sponsored)  
The bill is on the Senate Floor for vote.

- B. AB 2268 (Horton) will inform dismissed state employees of the requirements for gaining re-entry into the state's workforce; would ensure that department EEO officers are autonomous and impartial; will provide the Legislature with information as to the costs to the state of discrimination litigation; changes the Skelly process. State Personnel Board staff has been working with the author on this section of the bill we have not been able to compromise. The bill is on the Senate second reading file.
  - C. AB 3000 (Budget Trailer bill) The Board is opposed to the section of the bill that will allow the CYA to do its own psychological screening of peace officer applicants. State Personnel Board staff has met with Budget Committee staff in the Assembly and the Senate to express our concerns.
  - D. SB 1161 (Polanco) Diana Rude' Senator Polanco's staff person and Judy Balmain met with Assembly Appropriations consultant to discuss amendments to the bill that would conform the law to the Courts ruling on Proposition 209.
5. PERS UPDATE - Sean Harrigan
- A. A written report was submitted by Sue Meyers, State Personnel Board Staff Assistant for PERS.
  - B. PERS assets are now \$136 billion. Last years investments exceeded the PERS bench mark by 1%, however given market conditions the total return last year was - 5.97%. PERS actuarial assumptions are sound and the fund is well diversified.
  - C. Jim Burton, Chief Executive Officer (CEO) for PERS will be leaving on August 23, 2002. An executive search committee has been hired to assist the PERS Board with the recruitment and selection of a replacement. Final interviews for the selection of a new CEO are scheduled for September 18, 2002.
  - D. Jim Gomez, Deputy Chief Executive Officer and Kayla Gillan, General Counsel will also be leaving PERS. A transition plan will be adopted by the PERS Board for

these positions. Permanent appointments will be made after the selection of the CEO.

6. ORAL ARGUMENT

Oral argument in the matter of JAMES AARON III, CASE NO. 01-4114. Appeal from rejection during probation. Department of Developmental Services.

Persons Participating:

Terry L. Slover, Labor Relations Specialist, representing Department of Developmental Services  
Linda M. Kelly, Legal Counsel, California Union of Safety Employees (CAUSE), representing appellant

ACTION: Submitted

BOARD ACTIONS

7. STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 23, 2002

ACTION: Adopted on August 6, 2002.

VOTE: Alvarado, Bos, Harrigan - Aye.

8. ACTION ON SUBMITTED ITEMS

ACTION: See pages 13-14.

9. ADMINISTRATIVE LAW JUDGE CASES

On August 6, 2002, the Board adopted the following decisions presented by Elise Rose, California State Personnel Board.

VOTE: Alvarado, Bos, Harrigan - Aye.

CHIEF COUNSEL RESOLUTIONS

DAVID NUNEZ, CASE NO. 00-0027

Appeal from thirty calendar days suspension  
Correctional Lieutenant

Department of Corrections

ACTION: Amended Resolution

VOTE: Alvarado, Bos, Harrigan - Aye

PROPOSED DECISIONS

JOSEPH ARTERBERY, CASE NO. 01-1587

Appeal from dismissal

Manager I

Department of Motor Vehicles

ACTION: Dismissal sustained

ANDREW CHAO, CASE NO. 01-4143

Appeal from dismissal

Correctional Officer

Corcoran - State Prison

Department of Corrections

ACTION: Dismissal modified to a nine-month suspension.

Chief Counsel's Office to prepare resolution.

LARRY POWELL, CASE NO. 02-0576

Appeal from rejection during

probationary period

Mailing Machine Operator I

Department of General Services

ACTION: Rejection during probationary period modified to  
reinstate appellant to his probationary status as Mailing  
Machine Operator I with an additional three months of  
probation to serve

BENJAMIN HILER, CASE NO. 02-1233

Appeal from dismissal

Correctional Officer

Corcoran - State Prison

Department of Corrections

ACTION: Submitted

DAVID EVANS, CASE NO. 02-0081

Appeal from rejection during

probationary period

Automotive Technician

Department of the California Highway Patrol

ACTION: Rejection during probationary period sustained

MARIO GARCIA, CASE NO. 02-0539

Appeal from one-step reduction in

salary for 12 months

Correctional Officer

Lower Lakes - Correctional Center

Department of Corrections

ACTION: One step reduction in salary for 12 months modified  
to a one step reduction in salary for six months

VICTORIA MCCOY, CASE NO. 01-3372

Appeal from dismissal

Material and Stores Supervisor I

Corcoran - State Prison

Department of Corrections

ACTION: The Board rejected the Administrative Law Judge's proposed decision and will decide the case its self.

JACQUELINE EDWARDS, CASE NO. 01-4107

Appeal from ten working days suspension

Motor Vehicle Field Representative (Range C)

Department of Motor Vehicles

ACTION: Ten working days suspension modified to five working days suspension

LARRY NEWMAN, CASE NO. 01-2880

Appeal from rejection during probationary period

Assistant Bureau Chief

Department of Justice

ACTION: Rejection during probationary period sustained

PAMELA BLANCHARD, CASE NO. 02-1699

Appeal from dismissal

Account Technician I

Health and Human Services Department

ACTION: Dismissal sustained

#### ARBITRATION

MICHAEL NOLAN, CASE NO. 02-1446

Appeal from one-step reduction

in salary for 3 months

Officer

California Highway Patrol

ACTION: One-step reduction in salary for 3 months revoked

DEAN ESHOM, CASE NO. 02-1424

Appeal from one-step reduction

in salary for 3 months

Officer

California Highway Patrol

ACTION: One-step reduction in salary for 3 months revoked

PETITIONS FOR REHEARING

XIAOPENG XU, CASE NO. 01-3110P  
Appeal from rejection during  
probationary period  
Research Program  
Specialist II (Economics)  
Department of Industrial Relations  
ACTION: Petition for rehearing filed by appellant denied

JOHN LEE, CASE NO. 02-0531  
Appeal from dismissal  
Janitor  
Department of General Services  
ACTION: Petition for rehearing filed by appellant denied

PATRICIA WOODS, CASE NO. 99-2494  
Appeal from discrimination complaint  
Diversion Program Administrator  
Department of Consumer Affairs  
and Medical Board of California  
ACTION: Petition for rehearing filed by appellant denied

MAMIE JONES, CASE NO. 02-0074  
Appeal from five-percent reduction in salary for five months  
Dispatcher Clerk  
Department of Transportation  
ACTION: Petition for rehearing filed by respondent denied

RUFUS LINDSEY, CASE NO. 01-3651  
Appeal from dismissal  
Correctional Officer  
Susanville - California Correctional Center  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant granted

STEVEN P. NUNGARY, CASE NO. 02-0274  
Appeal from official reprimand  
Landscape Maintenance Worker  
Department of Transportation  
ACTION: Petition for rehearing filed by appellant denied

TERRY HILL, CASE NO. 01-1529  
Appeal from 10 working days suspension  
Correctional Lieutenant  
San Diego - Correctional Facility  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

MICHAEL ROMINGER, CASE NO. 01-0457P  
Appeal from demotion of Special Agent Supervisor to Special Agent  
Department of Justice  
ACTION: Petition for rehearing filed by respondent denied

10. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 15-18.

11. WITHHOLD APPEALS  
On August 6, 2002, the Board adopted the following decisions  
presented by Laura Aguilera, Assistant Executive Officer,  
California State Personnel Board.  
VOTE: Alvarado, Bos, Harrigan - Aye.

RUDY ARELLANES, CASE NO. 01-2330  
Classification: Hospital Peace Officer  
Department of Mental Health  
ACTION: DENIED

RONALD BAKER II, CASE NO. 01-2816  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

KURT BOCK, CASE NO. 01-2913  
Classification: Hospital Police Officer  
Department of Mental Health  
ACTION: DENIED

RALPH BONNETT, CASE NO. 01-2886  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

NICOLAS CARPIO, CASE NO. 01-2989  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ART CERBONI, CASE NO. 01-3041  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED



MARTIN CERVANTES, CASE NO. 01-2818  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

FRANK CONSTANCIO, CASE NO. 01-2808  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

JONATHAN DEMUS, CASE NO. 01-2820  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

SANDRA DUPREE, CASE NO. 01-1447  
Classification: Parole Agent I,  
Adult Parole  
Department of Corrections  
ACTION: DENIED

BOBBY ESPINA, CASE NO. 01-2810  
Classification: Medical Technical  
Assistant, CF  
Department of Corrections  
ACTION: DENIED

JOSE GARZA, CASE NO. 01-2541  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

GEORGE M. GEORGE, CASE No. 01-3141  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

LEARENCE GUIDRY, CASE NO. 01-2543  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

WESLEY HALL, CASE NO. 01-2546  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

STANLEY JACKSON, CASE NO. 01-2544

Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RICHARD MORENO, CASE NO. 01-2199  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RHONDA MURPHY, CASE NO. 01-2025  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RALPH ROCHA, JR., CASE NO. 01-3284  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RICHARD SAAVEDRA, CASE NO. 01-3040  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

EDGAR SARINANA, CASE NO. 01-3049  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MATTHEW TINSTON, CASE NO. 01-2663  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DAVID VIZZINI, CASE NO. 01-3030  
Classification: Youth Correctional Counselor  
California Youth Authority  
ACTION: DENIED

TIMOTHY WILSON, CASE NO. 01-3201  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

12. MEDICAL APPEALS

On August 6, 2002, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Bos, Harrigan - Aye.

PHILLIP FIFE, CASE NO. 01-3961  
Classification: Hospital Police Officer  
Department of Mental Health  
ACTION: DENIED

13. REQUEST TO FILE CHARGES CASES

On August 6, 2002, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Bos, Harrigan - Aye.

(Request to File Charges Cases)

JULIUS ENGEL, CASE NO. 02-1237  
Classification: A member of the public  
ACTION: DENIED

LEIJANE OGAWA, CASE NO. 01-1941  
Classification: Employee of the  
Department of Transportation  
ACTION: DENIED

14. NON-HEARING CALENDAR

Item A was withdrawn from the August 6, 2002 agenda, to be rescheduled.

- A. FRAUD INVESTIGATOR, DEPARTMENT OF INSURANCE (DOI)  
SUPERVISING FRAUD INVESTIGATOR I, DOI  
SUPERVISING FRAUD INVESTIGATOR II, DOI  
The Department of Insurance proposes specification revisions to the classes of Fraud Investigator, Department of Insurance (DOI), Supervising Fraud Investigator I, DOI and Supervising Fraud Investigator II, DOI appearing in the Fraud Investigator, DOI series specification.

15. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER  
CONSIDERATION

(1) ASSISTANT CHIEF DEPUTY DIRECTOR

The Department of Alcoholic Beverage Control proposes to allocate the above position to the CEA category for an additional 12 months or until the Governor's appointments are made. The Assistant Chief Deputy Director will continue to be responsible for providing executive oversight over the state mandated licensing and enforcement programs, as well as special projects, policy development, and public outreach programs. The department indicates that the position is at the first organizational level and reports to the Director.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. KIMBERLY ARNOLD, CASE NO. 00-3959. Appeal from dismissal. Department of Corrections. (Oral argument held May 7, 2002).

ACTION: On August 6, 2002, adopted Board decision sustaining dismissal and issued Precedential Decision #02-07\*.

VOTE: Alvarado, Bos, Harrigan - Aye

2. STEPHANIE RODRIGUEZ, CASE NO. 99-5150; DARRELL SNELL, CASE NO. 00-0002; RENEE VILLARREAL, CASE NO. 00-0030; AND WAYNE VILLARREAL, CASE NO. 00-0033. Appeal from suspension. Department of Corrections. (Oral argument held May 7, 2002).

ACTION: On August 6, 2002, adopted Board decision revoking suspension.

VOTE: Alvarado, Bos, Harrigan - Aye

3. EXPEDITED HEARINGS - PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 52.4. (Hearing held May 7, 2002).

NO ACTION

4. ANSWER ON APPEALS FILED WITH STATE PERSONNEL BOARD. PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 63. (Hearing held May 7, 2002).

NO ACTION

5. PAUL SULIER, CASE NO. 01-2626. Appeal from demotion. Department of Corrections. (Oral argument held June 18, 2002).

NO ACTION

6. PSC NO. 02-01: Appeal of the Department of Parks and Recreation from the Executive Officer's December 17, 2001, Disapproval of a Contract with Royston Hanamoto Alley & Abey in response to the request for review submitted by the California Association of Professional Scientists. (Hearing held July 9, 2002).

NO ACTION

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\*Adopted as Precedential Decision # 02-07

7. PSC NO. 02-02: Appeal of the International Union of Operating Engineers from the Executive Officer's January 31, 2002, Approval of a Contract between the State Personnel Board and Kronick, Moskovitz, Tiedemann & Girard for legal services. (Hearing held July 9, 2002).

NO ACTION

8. VIRGINIA PARKER, CASE NO. 00-3983. Appeal from ten percent reduction in salary for 12 months. Department of Corrections. (Oral argument held July 9, 2002).

NO ACTION

9. MARIE ROSE JOHNSON, CASE NO. 01-1461E. Appeal from discrimination complaint. Department of Social Services. (Oral argument held July 9, 2002).

NO ACTION

10. NATHANIEL MATTHEWS, CASE NO. 01-2356. Appeal from suspension for 60 working days. Department of Corrections. (Oral argument held July 9, 2002).

ACTION: On August 6, 2002 adopted Administrative Law Judge decision modifying 60 working days suspension to a 30 working days suspension. Chief Counsel to prepare resolution.

VOTE: Alvarado, Bos, Harrigan - Aye

11. Status of the State's Decentralized Testing. (Hearing held July 9, 2002).

NO ACTION

12. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).

NO ACTION

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on August 6, 2002.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Alvarado, Bos, Harrigan - Aye.